

This letter discusses sales in interstate commerce that originate in Illinois. 86 Ill. Adm. Code 130.605. (This is a GIL).

August 20, 2004

Dear Xxxxx:

This letter is in response to your letter dated March 20, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I have enclosed copies of documentation on (4) four separate vehicles, which were purchased and shipped out of the country. We were charged Illinois State Sales Tax on each vehicle, which we are requesting a legal letter ruling for reimbursement of all sales tax in full on all vehicles.

Enclosed you will find a copy of the ST-556 Sales Tax Transaction Return, Certificate of Title of Vehicle, Temporary Registration Plate, Bill of Lading and Dock Receipt for (1) one VEHICLE1 as listed below.

- 2003 VEHICLE1 purchased on DATE/02 from COMPANY1 and shipped to PLACE1, DATE/02.

Also enclosed is a copy of the ST-556 Sales Tax Transaction Return, Certificate of Title of Vehicle, Purchase Receipt, Shipping Order and Shippers Receipt Report on (3) three VEHICLES as listed below.

- 2004 VEHICLE2, purchased on DATE/04 from COMPANY2 and shipped to PLACE2 on DATE04.
- 2004 VEHICLE3 purchased on DATE/04 from COMPANY3 and shipped to PLACE3 on DATE/03.

- 2004 VEHICLE4, purchased on DATE/04 from COMPANY4 and shipped to PLACE4 on DATE/04.

Should you require any further information for ruling, please contact PERSON. Thank you in advance for your assistance in this matter.

DEPARTMENT'S RESPONSE

Claims for credit and refunds are available when a person shows that he paid tax to the Department as a result of a mistake of fact or law. Only the remitter of the tax erroneously paid to the Department is authorized to obtain a refund. It is the retailer (in this instance, the car dealer) who remitted the tax to the Department and who is able to file a claim for a refund, although he is not required to. See 86 Ill. Adm. Code 130.1501.

For general information, please refer to 86 Ill. Adm. Code 130.605 regarding sales of property originating in Illinois. Subpart (c) of this regulation states that Retailer's Occupation Tax does not apply where sellers ship goods by carrier or by mail, according to the terms of agreements with purchasers, and the seller delivers the goods from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. Such sales are considered to be sales in interstate commerce and are exempt from Illinois and local Retailers' Occupation Tax.

However, sales are not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in Illinois, even if such property is immediately transported outside of Illinois. See 86 Ill. Adm. Code 130.605(a)(1) and (2). This would be the case if the purchaser arranges and pays for the shipping, and the carrier takes possession of the property in this State.

An exception is made for motor vehicles when the motor vehicle is delivered to a nonresident of this State and a drive-away permit for the purposes of removing the motor vehicle from the State has been issued for that vehicle under the provisions of part (a)(4)(A) of Section 130.605. The information provided with your letter does not indicate that such drive-away permits were issued for the vehicle referenced in your letter. In addition, the documentation provided with your letter does not indicate that the sale was made to a nonresident.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk